

CHAPTER V

THE TOWNSHIP BOARD

ELECTION

At the time of electing township trustees, the voters of the several townships shall elect a township board consisting of three residents and qualified voters of the township. The term of office shall be for four years, or until their successors are elected and qualified, and shall begin on the first day of January succeeding their election. IC 3-10-2-13; IC 36-6-6-3

QUALIFICATION

Members of the township board shall subscribe and file with the township trustee an oath to faithfully and honestly discharge their duties as prescribed by law. IC 5-4-1-4

If a vacancy occurs in the board, it shall be filled by a political party caucus, of the same party as the officer who vacated, for the unexpired term as provided in IC 3-13-10-1. Other township board vacancies shall be filled by the county commissioners. IC 3-13-10-4

A member shall reside in the township in which he was elected. If a member ceases to be a resident of the township, the office becomes vacant. IC 36-6-6-3

SALARY

The annual salary of each member of the township board may be set by the township board in any amount, at least, or in excess of the amount fixed for that salary for the year 1980. IC 36-6-6-10

IC 36-6-6-10 (c) provides subject to subsection (d) the township legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

If a township board member serves for part of the year only, the compensation shall be the annual salary prorated on the basis of the time served. IC 36-6-8-13

MEETINGS

The township board shall meet annually on or before the first Tuesday after the first Monday in January at the office of the township trustee. The board shall meet and organize annually on the above date by electing one of its members chairman and one of its members secretary for that year. Any two members shall constitute a quorum. IC 36-6-6-4; IC 36-6-6-7

If a newly elected township board holds a special meeting before the first Tuesday after the first Monday in the January following its election, it shall elect a chairman and a secretary before conducting any other business. The chairman and secretary elected at the special meeting retain those positions until the first Tuesday after the first Monday in January of the year following the special meeting. IC 36-6-6-7

The board shall meet annually on or before the third Tuesday after the first Monday in January to consider and approve in whole or in part the annual report of the township trustee. IC 36-6-6-9

BOARD OF FINANCE MEETING

The township board shall meet annually after the first Monday and on or before the last day of January and organize as a board of finance. IC 5-13-7-6

During the annual meeting required by IC 5-13-7, the investment officer shall make a written report of the investing officer's investments during the previous calendar year. The report must contain the name of each financial institution, government agency or instrumentality, or other person with whom the political subdivision invested money during the previous calendar year. The local board of finance shall do the following at the meeting: (1) review the report; and (2) review the overall investment policy. IC 5-13-7-7

BUDGET ADOPTION - MEETING

The annual meeting for the adoption of the annual budget, and any special meetings, may be held at a convenient place in the township, notice of which shall be given as provided by law. The date of the meeting for the adoption of the annual budget, tax rates and tax levy shall be not later than September 20th. IC 6-1.1-17-5

SPECIAL MEETINGS

Special meetings may be held if the township trustee, or chairman of the township board, or a majority of the members of the township board, issue a written notice of the meeting to each member of the board. IC 36-6-6-14

At such meetings, the township board is empowered to act upon matters pertaining to the school township as well as the civil township. (McDonald v. State ex rel. Gibbs, 1931, 202 Ind. 409, 175 N.E. 276)

ALL MEETINGS

The board shall keep a record of proceedings in a separate book to be furnished by the trustee, and kept as a part of the records of the township, to be known as "The Record of the Township Board" of such township. Said record is to remain in the custody of the chairman of the board. IC 36-6-6-8

All proceedings had and decisions made by a township board must be entered of record, which record shall be open to public inspection and persons dealing with the township trustee must take notice of such record. (First National Bank v. Van Buren School Tp., 1911, 47 Ind. App. 79, 93 N.E. 863)

The secretary of the township board shall under the direction of the board record the minutes of the proceedings of each meeting in full and provide copies of the minutes to each member of the township board before the next meeting is convened. After the minutes are approved by the township board, the secretary of the township board shall place the minutes in the permanent record book. Any meeting may adjourn from day to day until the business is completed. IC 36-6-6-5, IC 36-6-6-8

DUTIES OF THE TOWNSHIP BOARD

Space will not permit the listing of all duties of the township board. Some of the most important duties are:

To advise with the township trustee concerning matters pertaining to the civil township.

To organize by electing a chairman and secretary at each annual meeting of the board held on the first Tuesday after the first Monday in January. IC 36-6-6-7

To examine and approve, in whole or in part, the annual report of the township trustee on or before the third Tuesday after the first Monday in January of each year. When such examination is completed, the board shall enter of record the action thereon, specifically stating such parts and items as may be altered or disallowed. The chairman retains custody of the report. IC 36-6-6-9

To keep a record of all business transacted at all meetings.

To make appropriations and establish tax rates and levies for the ensuing year (no later than September 20) with notice given by the trustee. IC 6-1.1-17-5

To make additional or emergency appropriations as the need or emergency arises.

Resolve tie votes in township office elections. IC 3-12-9-4

To determine if an emergency exists for the expenditure of any sums of money not included in the existing estimates and levy. In the event such emergency is found to exist, said board may authorize the trustee (by special order entered and signed on the record) to borrow a specified amount of money sufficient to meet the emergency. At the next annual meeting of the board, a levy shall be made to the credit of the fund from which such expenditure is made sufficient to cover and pay the debt so created. IC 36-6-6-14

Not less than ten (10) taxpayers may file an objecting petition for special orders issued in accordance with IC 36-6-6-14. IC 36-6-6-14.5

Notwithstanding IC 36-8-13-4(a), the legislative body may authorize the executive to borrow a specified sum from a township fund other than the township firefighting fund if the legislative body finds that the emergency requiring the expenditure of money is related to paying the operating expense of a township fire department or volunteer fire department. IC 36-6-6-14

In the event an emergency is found to exist, the board may make temporary loans in an amount not exceeding fifty (50) percent of the total anticipated revenue for the remainder of the year in which such loan or loans are made. All temporary loans shall be authorized by a resolution of the township board designating the nature of the considerations, the time the loans are payable, the place the loans are payable, the rate of interest, the revenues in anticipation of which such temporary loans are made and out of which the same are payable, and appropriating a sufficient amount of the anticipated revenues of such civil township of which such temporary loans are based (and out of which they are payable) to the payment thereof. The loans must be evidenced by time warrants of the township stating: The nature of the consideration, the time payable, the place payable, and the anticipated revenues on which they are based and out of which they are payable. IC 36-6-6-15

If the rate of interest exceeds 8%, the approval of the Department of Local Government Finance must be obtained. IC 6-1.1-20-7

When a vacancy has been created in the office of township trustee for the period of time between when the vacancy occurs and when the vacancy is filled, the chief deputy employee of the trustee assumes the duties of the township trustee. If no chief deputy employee exists, the chairman of the township board assumes the duties of the township trustee.

Any person who assumes the duties of any vacant office has all of its rights and duties. IC 3-13-11-18

FUNDING AND REFUNDING INDEBTEDNESS

Any civil or school township in the state whose indebtedness is evidenced by bonds, notes, judgments, or other obligations issued or negotiated by such township, or rendered against such township, may for the purpose of funding or refunding such indebtedness, or any part thereof, reducing the rate of interest thereon, extending the time of payment and canceling so much thereof as may be or become due, by the vote of two thirds (2/3) of the members of the township board, and with the approval of the township trustee, issue its bonds, with interest coupons attached, for an amount not exceeding in the aggregate the whole amount of the indebtedness of such township. IC 5-1-10-1

BOARD OF FINANCE

The township board shall constitute a board of finance for their respective townships. They shall annually after the first Monday and on or before the last day of January meet and organize as a board of finance. IC 5-13-7-5, IC 5-13-7-6

TOWNSHIP BOARD - LUCRATIVE OFFICE

The office of township board is a lucrative office. Hence, a member cannot hold any other lucrative office at the same time such as member of the county council. It is the accepted rule of law in Indiana that the acceptance of a second lucrative office, in violation of the constitutional provision, automatically vacates the office occupied at the time of such acceptance. (Opinions of Attorney General 1935, page 333; Wells v. State ex rel. Peden, 175 Ind. 381)

UNUSED AND UNENCUMBERED BALANCE IN TOWNSHIP FUND -
TRANSFER TO DEBT SERVICE FUND OF SCHOOL CORPORATION

Whenever any unused and unencumbered balance has accumulated in the township fund of any township, and no current tax levy is required for that fund, the township board, may order any part of the balance of that fund transferred to the debt service fund of the school corporation within or in part within the township, or if there is more than one school corporation within or in part within the township, such balance shall be transferred and paid to the debt service fund of such school corporations in the same proportion that the assessed valuation of taxable property in such school corporation within or in part within each such township bears to the entire assessed valuation of taxable property in such civil township. IC 36-1-8-5

MEMBERSHIP IN GOVERNMENTAL ASSOCIATIONS - BOARD'S
AUTHORITY TO APPROPRIATE FUNDS - REPRESENTATION

Township boards are hereby authorized to appropriate necessary funds to provide membership of townships in county, state and national association of a civic, educational or governmental nature, which have as their purpose the betterment and improvement of township governmental operations. Townships are also authorized to participate in the activities of these associations, and the township boards are authorized to appropriate money to defray the expenses of such representatives in connection with these activities. IC 36-6-6-12

RESOLUTION RECOMMENDING SALARIES OF TOWNSHIP
OFFICERS AND EMPLOYEES (Form 17-Revised 1999)

The township board shall set: (1) Salaries; (2) Wages; (3) Rates of hourly pay; and (4) Remuneration other than statutory allowances; of all officers and employees of the township, except the assessor and his deputies and employees. IC 36-6-6-10

IC 36-6-6-10 (c) provides subject to subsection (d) the township legislative body may reduce the salary of an elected or appointed official. However, the official is entitled to a salary not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

For more information see Pages 1-3 and 2-3.

TOWNSHIP ASSISTANCE - APPEAL TO BORROW

If money is not available for the payment of township assistance claims under IC 12-20-20-1, the township board shall appeal to borrow under IC 12-20-24. If the township board does not appeal to borrow money under IC 12-20-24 or such appeal fails, the commissioners may borrow funds or otherwise provide the money. If the county commissioners determine to borrow the money or otherwise provide the money, the county council shall promptly pass necessary ordinances and make necessary appropriations to enable this to be done, after determining whether to borrow money by a temporary loan against taxes levied and in the process of collection, by the sale of county township assistance bonds or other county obligations, or by any other lawful method of obtaining funds for such purpose. (Does not apply to a county having a consolidated city.) IC 12-20-20-2

If the township board appeals to borrow, the appeal would be transmitted to the board of county commissioners who shall as soon as possible determine whether or not to loan the requested amount to the township board. If the commissioners determine not to make the loan, they shall submit the request to the county auditor who shall then call a special meeting of the county council for their determination of whether or not to allow the township board to borrow money. If the county council determines not to allow the borrowing, the township board may then appeal to the Department of Local Government Finance for the right to borrow money to pay its township assistance obligations. If the Department of Local Government Finance determines the township board should not be allowed to borrow money, the township board may not borrow for that year.

A board of county commissioners, a county council, or the Department of Local Government Finance may not: (1) approve a request to borrow money made under this chapter unless the body determines that the township assistance account will be exhausted before it can fund all township obligations incurred under this article; (2) recommend or approve a loan that will exceed the estimated amount of the deficit; or (3) recommend or approve a loan that exceeds the deficit.

A township board must make an additional appropriation before money borrowed under this chapter may be spent.

A township board must appeal to a board of county commissioners before August 1 of that calendar year for the right to borrow that money; and, must also receive permission to borrow the money from the county commissioners, county council, or Department of Local Government Finance before November 1 of that same year. IC 12-20-24-8

See Chapter Six, Financing Township Assistance.

DISPOSAL OF PROPERTY

The fiscal body of a unit must approve every sale of real property having an appraised value of fifty thousand dollars (\$50,000) or more and every lease of real property for which the annual rental payments will be more than twenty-five thousand dollars (\$25,000) or more. IC 36-1-11-3

Public hearing and notice requirements exist under IC 36-1-11-3 for certain disposals of real property.

HOME RULE

If there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.

If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise a power must either adopt a resolution prescribing a specific manner for exercising the power or comply with a statutory provision permitting a specific manner for exercising the power. A resolution must be adopted by the legislative body of the township.

A township may not exercise power the township has if another unit in which all or part of the township is located exercises that same power. IC 36-1-3-5

IC 36-1-3-8 provides:

- (a) Subject to subsection (b), a unit does not have the following:
 - 1. The power to condition or limit its civil liability, except as expressly granted by statute.
 - 2. The power to prescribe the law governing civil actions between private persons.
 - 3. The power to impose duties on another political subdivision, except as expressly granted by statute.
 - 4. The power to impose a tax, except as expressly granted by statute.
 - 5. The power to impose a license fee greater than that reasonably related to the administrative cost of exercising a regulatory power.
 - 6. The power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges for services.
 - 7. The power to regulate conduct that is regulated by a state agency except as expressly granted by statute.
 - 8. The power to prescribe a penalty for conduct constituting a crime or infraction under statute.
 - 9. The power to prescribe a penalty of imprisonment for an ordinance violation.
 - 10. The power to prescribe a penalty of a fine of more than two thousand five hundred dollars (\$2,500) for an ordinance violation.
 - 11. The power to invest money, except as expressly granted by statute.
 - 12. The power to order or conduct an election, except as expressly granted by statute.
- (b) A township does not have the following, except as expressly granted by statute:
 - 1. The power to require a license or impose a license fee.
 - 2. The power to impose a service charge or user fee.
 - 3. The power to prescribe a penalty.